

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR

Call to Order: By **VICE CHAIRMAN ROD BITNEY**, on January 30, 2001
at 8:00 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Rod Bitney, Vice Chairman (R)
Rep. Gary Matthews, Vice Chairman (D)
Rep. Roy Brown (R)
Rep. Nancy Fritz (D)
Rep. Kathleen Galvin-Halcro (D)
Rep. Dennis Himmelberger (R)
Rep. Carol C. Juneau (D)
Rep. Jim Keane (D)
Rep. Rick Laible (R)
Rep. Bob Lawson (R)
Rep. John Musgrove (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Brett Tramelli (D)
Rep. James Whitaker (R)

Members Excused: None.

Members Absent: Rep. Joe McKenney, Chairman (R)
Rep. Sylvia Bookout-Reinicke (R)
Rep. Dave Gallik (D)
Rep. Donald Steinbeisser (R)

Staff Present: Gordon Higgins, Legislative Branch
Jane Nofsinger, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB382, HB380, HB386, HB385,
1/25/2001
Executive Action: HB348, HB349, HB382

Sponsor: REP. JIM WHITAKER, HD41, Cascade County

Proponents: Ronda Carpenter, Montana Housing Providers
Geoffrey Bayliss, Montana Landlords Assn.
Will Biggs, Western Montana Landlord Assn.
Arnold Schagel, Income Property Management
Christy Schagel, Income Property Management
Roger Halver, Montana Assn. Of Realtors

Opponents: Matthew Leow, Montana Public Interest Research Group
Clark Johnson, Bozeman City Manager
Alec Hansen, Montana League Cities and Towns
Janie McCall, City of Billings
Mike Kadas, Mayor of Missoula
Briana Kerstein, Montana People's Action

Opening Statement by Sponsor:

REP. JIM WHITAKER, HD 382, Cascade County, said HB382 is an act which would prohibit self-governing local government units from imposing conditions on landlords which are beyond what is already provided for in state law.

Proponents' Testimony:

Ms. Carpenter said her group represented 1000 members across the state. She noted her group had requested the bill because they see the potential for a problem. Charter governments possess any rights which the state government does not take away from them, and this bill takes away some of those rights, she said. She explained HB382 does not impact zoning, building codes, or fire and safety inspection. The bill does insure that landlord-tenant laws are the same throughout the state. HB382 disallows local governments from falsely manipulating rental markets with local ordinances, she emphasized.

Mr. Bayliss pointed out that license fees are usually passed on to the renter and therefore really should be regarded as rent increases.

Mr. Biggs agreed with Mr. Bayliss and noted that complaints about city ordinances often wind up in court which he referred to as a "black hole."

Mr. Schagel stated if this bill is not passed, the cost of licensing will be passed on to the tenants as a another tax. He said local government must be stopped from creating regulations which raise rent prices.

Mrs. Schagel said she supported the bill.

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Mr. Halver said the bill has the potential for increasing sprawl because landlords will move outside of city limits to avoid regulations. He noted, as renters are usually those with low income, this is a tax on those most likely to be able to afford it. He agreed these license costs are passed on to tenants.

Opponents' Testimony:

Mr. Lee said the committee should trust local people to make the best decisions for local people. He said he was concerned about the cost being passed on to the renters, but still local governments should not be prohibited from making local decisions.

Mr. Johnson presented written testimony. **EXHIBIT (buh24a01)** He said this bill is a threat to local government and its authority to govern itself. He said he did not agree that landlord-tenant laws needed to be equal across the state. He said local governments knew more about their needs than anyone else.

Mr. Hansen presented written testimony. **EXHIBIT (buh24a02)** He said the bill would erode the self-governing powers of the local governments and ultimately impact such things as snow removal, weed control and zoning.

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Ms. McCall said the language of the bill was broad and she agreed with Mr. Hanson that self-governing powers are critical to local government. She said this bill erodes their powers.

Mr. Kadas said this is not a place for the legislature to regulate and these matters need to be dealt with at home. He said the notion this will eliminate sprawl is not correct because the cause of sprawl is much more complicated. He said one way to control is to make cities more appealing by having clean and weed-free sidewalks, and an attractive and tidy environment. He suggested this will entice people to choose city living, not because it is cheaper, but because it is better.

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Ms. Kerstein said she has worked before to pass local licensing of landlords. She said the bill will help protect tenants when landlords decide to punish the tenants by raising rental rates.

She called tenants a high risk group which may be faced with the choice of living in the streets or in substandard housing.

Questions from Committee Members and Responses:

REP. ROME asked **Mr. Kadas** how the license fees worked in Missoula. **Mr. Kadas** said they cost \$30-\$35 for the license and \$7.50 per unit.

REP. BROWN asked if there was anything in this bill which would keep the landlord from having to do snow removal. **Ms. Carpenter** said the bill does not say anything about this, or weed and garbage removal.

REP. PRICE asked **Mr. Hansen** at what time the state has authority and when it does not. **Mr. Hansen** said the Constitution calls for a liberal construction of local government and this bill denies power to the local government.

Closing by Sponsor:

REP. WHITAKER said higher taxes and licenses raise rents. He said the City of Great Falls requires snow removal within 24 hours. He also said the bill does not impact fire and safety inspections. He presented correspondence from Missoula attorney Michael Solle regarding the bill. **EXHIBIT (buh24a03)** He concluded that higher fees equal higher rents, and that renting existed before local government.

HEARING ON HB380

Sponsor: **REP. BILL EGGERS, HD6, Crow Agency**

Proponents: Jan VanRiper, State Auditor's Office
Roger McGlenn, Independent Insurance Agents of
Montana
Matthew Leow, Montana Public Interest Research Group
Al Pontrelli, Montana Assn. of Insurance Agents and
Financial Advisors

Opponents: Sue Weingartner, Alliance of American Insurers
John Metropolous, National Assn. of Independent
Insurance Agents
Greg Van Horssen, State Farm Insurance Company
Jacqueline Lenmark, American Insurance Assn.

Opening Statement by Sponsor:

REP. BILL EGGERS, HD6, Crow Agency, called this a consumer protection bill. He said there are a great many uninsured individuals in Montana. He stated the use of credit scoring to determine eligibility for automobile and homeowners insurance is not in the best interest of the public. HB380 would not allow credit history to impact an individual's ability to get insurance, however a credit history could still be used to determine rates.

Proponents' Testimony:

Ms. Van Riper testified the bill had been prepared at the request of the State Auditor's Office. She said many carriers use credit scoring to set rates. This scoring is done by credit rating organizations which gather information about people. Factors which could bring scores down are : having no credit cards, having a lot of credit checks, or having a recent credit check.

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These scores are sold to insurance carriers. She said her office had originally proposed more restrictive language, and that they could live with a ban on using scores. **EXHIBIT (buh24a04)**

Mr. McGlenn said the problem with using credit history was due to erroneous information and inaccuracies. However, he said if credit history use was disallowed, there would be no surety bonds issued in the state.

Mr. Leow said the bill allows the use of credit scoring to determine rates, not eligibility. He told the committee that denying insurance is not fair to individuals because they are required by law to have it. He talked about the cycle of bad credit which traps individuals and said the bill would remove this barrier.

Mr. Pontrelli said his organization supported the bill and urged the committee to pass it.

Opponents' Testimony:

Ms. Weingartner told the committee that in order to preserve the ability of the marketplace to function, insurers must be able to consider all available information. She said a relationship exists between credit history and loss potential. She noted most consumers are aware of the importance of their credit history, and most insurers want to write more insurance , not less. She stated that property and casualty insurers have written more policies since the use of credit scoring. She also reminded the

committee that insurance is a purchased service, not a right. She also noted individuals are free to shop for companies which do not use credit scoring. **EXHIBIT (buh24a05)**

Mr. Metropolous said it is best for insurers to make decisions based on objective information like credit scoring. He said credit scoring was not related to level of income, but instead it was based on how bills are paid.

Mr. Van Horssen said insurance companies were in the business of predicting the future and this is how they set the price of their product. Insurance companies should be allowed to use the best information available, he said. Risks increase as credit history declines, he added. He concluded this bill would remove an important factor in risk assessment and would make insurance less available rather than more.

Ms. Lenmark noted that assuming insurers only used poor credit ratings was the wrong premise because they also use good credit rating information to write policies. She also corrected a previous statement that insurance companies can deny a policy simply based on a credit history. She also noted the high correlation between credit history and risk potential. She stated a study by Allstate showed 40% more losses in high risk policies. She said this bill if passed will impact the variety of insurance products available. She said the law now prohibits insurance companies from denying coverage solely on credit history and allows for the use of credit history in a positive way. Taking this bill away would put Montana one step behind by removing a valuable tool.

Questions from Committee Members and Responses:

REP. BROWN asked **Ms. Van Riper** how many complaints her office had received last year concerning credit history. **Ms. Van Riper** said her office received over 100 questions from individuals and also some from insurance agents who say they cannot find quotes for individuals. She called this "a lot of concern."

Closing by Sponsor:

REP. EGGERS said the bill opens the door and the rates can be set accordingly. He said it will cause more people to be insured on the highways, providing safety and protection to Montanans.

HEARING ON HB385

Sponsor: REP. ALLAN WALTERS, HD60, Hamilton

Proponents: Jim Thomas, Valley United Insurance Service
Annette Kunda, McHenry Insurance

Opponents: Greg Van Horssen, State Farm Insurance
Jacqueline Lenmark, American Insurance Assn.

Opening Statement by Sponsor:

REP. ALLAN WALTERS, HD60, Hamilton, said the act prohibits an insurer from canceling a motor vehicle liability policy or raising the premium for the policy when the insured is temporarily living out-of-state, as long as the insured maintains their Montana residency.

Proponents' Testimony:

Mr. Thomas told of an elderly couple who received a cancellation notice from their insurance company. The couple had Montana driver and automobile licenses, and were registered voters in Montana. They had been wintering in Arizona for six months when they received a notice from their insurance company that their insurance would be cancelled. He asked the committee to pass this bill so that citizens like this couple and others in similar circumstances would be protected under law from cancellation of their insurance policies.

Ms. Kunda told the committee she, too, had received complaints from seniors who were out of state and had received insurance cancellation notices.

Opponents' Testimony:

Mr. Van Horssen opposed the bill because he said the assessment of risk is associated with coverage. He said where a person lives and drives his or her vehicle determines the rate. This bill would allow anyone with a Montana license to be issued insurance at Montana rates no matter where they live and drive, he said. This law would result in higher rates because Montana rates would have to allow for drivers in high risk areas such as New York and Los Angeles.

Ms. Lenmark opposed the bill because it would be a policy change in law which was based on one incident in Montana. There are many individuals who would fall into the category, such as students

and military, as well as seniors. She said the risk the driver represents should be properly rated.

Informational Testimony:

Claudia Clifford, State Auditor's Office, said if the bill goes forward, the term "primary resident" should be better defined. She said residency cannot be based on property owned because many individuals rent their homes.

Questions from Committee Members and Responses:

REP. GALLIK asked **Mr. Van Horssen** how the insurance companies deal with the "5th wheel haven" of Montana. **Mr. Van Horssen** said the ratings on those are done the same way as with autos: they are based on where the vehicle is driven and garaged.

REP. PRICE asked **Mr. Van Horssen** how military insurance was handled. **Mr. Van Horssen** replied another carrier was the primary carrier for military insurance and he did not know how it was handled.

REP. BITNEY asked **Ms. Clifford** how many cases the commissioner's office had seen. **Ms. Clifford** said it is not a big problem because this was the only case she knew of. She added that insurance policies are required to be delivered to the owners in-state, and the problem arises when "snowbirds" are out of the state.

Closing by Sponsor:

REP. WALTERS called this a "Senior Citizen Insurance Protection Act." He noted Montana has an aging population. This law would stop discrimination and he said there is no law now against canceling insurance policies on individuals who are out of state but still residents.

HEARING ON HB386

Sponsor: **REP. DAN FUCHS, HD15, Billings**

Proponents: **Annette Kunda, Wild Coyote Fireworks**
Kitty Krohni, The Last Stand
Michael Maeder, Big Sky Pyrotechnics Assn.
& Liberty Fireworks
Blaine Martin, R & S Marketing Fireworks Co.

**Tim Lawrence, Christian Center Church
Vic Reichenbach, Reichenbach Fireworks
Mona Jamison, R & S Marketing**

Opponents: None

Opening Statement by Sponsor:

REP. DAN FUCHS, HD 15, Billings, said the act allows the sale of fireworks from June 24 - July 5 and from December 29 - December 31. The extra days in December had been added for the millennium celebration only. He said the December days had been popular and the bill would extend the sale of fireworks annually during those days.

Proponents' Testimony:

Ms. Kunda testified the sale of fireworks for three days in December had been successful last year. She said another plus was the ability to provide a few more jobs. She noted several of her employees were teachers on Christmas break who were able to earn some extra money. She presented a list of signatures by 31 individuals who were in favor of the bill. **EXHIBIT (buh24a06)**

Ms. Krohni said she had run a fireworks stand in Park County for 10 years and she was in favor of the bill.

Mr. Maeder noted that most countries celebrate New Year's Eve with fireworks, and his stand was open last year during the three days allowed in December. He stated he had no problems.

Ms. Martin noted as a fireworks wholesaler he has over 140 accounts in Montana. All of these accounts would benefit from HB386, he said. He testified his payroll was close to half a million and this bill would be one step closer to insuring these jobs.

Mr. Lawrence said his church has sold fireworks for six years to raise money for community programs. He stated there are 22 Assembly of God Churches in Montana which sell fireworks to raise funds.

Mr. Reichenbach told the committee that people really enjoy fireworks and there is not much fire risk at New Year's.

Ms. Jamison agreed his company created a good payroll for Montana and that it is a national tradition to celebrate New Year's with fireworks. She noted that fireworks are fun, beautiful, and with parental guidance, they are safe. She asked the committee to

realize the fire marshal was not present to oppose the bill. She related to the committee that in China fireworks were considered a way "to cement people's hopes."

Opponents' Testimony: None

Questions from Committee Members and Responses: None

REP. KEANE asked **Ms. Kunda** how one heats a fireworks stand on the 29th of December? **Ms. Kunda** responded that was one reason she thought three days to be open in December was plenty.

Closing by Sponsor:

REP. FUCHS concluded by saying the bill is a great idea and adds some economic value.

Chairmen McKenney thanked the witnesses for traveling to Helena to testify on HB386.

EXECUTIVE ACTION ON HB386

Motion/Vote: **REP. KEANE** and **REP. PRICE** moved that **HB386 DO PASS**. Motion carried unanimously. 19-0.

EXECUTIVE ACTION ON HB349

Motion: **REP. LAWSON** moved that **HB349 DO PASS**.

Discussion:

REP. BROWN moved **Amendment HB034901.agh**. Voice vote. The motion was carried unanimously.

REP. LAWSON moved that **HB349 DO PASS AS AMENDED**.

Discussion:

REP. BITNEY noted HB349 would promote economic development.

REP. GALLIK said he thought it was a good bill but he saw the potential for conflict and contained no oversight.

REP. KEANE said he had concerns previously but thought the amendment took care of the problem. He added it gave another

avenue of funding for education and would help the person involved on the research.

REP. GALLIK offered an amendment to HB349.

Discussion:

REP. MATTHEWS said he was not sure an amendment was needed, because after the development cost, the profit was split 50-50.

CHAIRMAN MCKENNEY said he would oppose the amendment in view of the fact the Board of Regents had testified they were comfortable with the amendment.

VOTE: GALLIK AMENDMENT failed 4-14 with GALLIK, GALVIN-HALCRO, JUNEAU, and TRAMELLI voting AYE.

Motion/Vote: REP. LAWSON moved that **HB349 DO PASS AS AMENDED.**

Motion carried 18-1 with Gallik voting no.

EXECUTIVE ACTION ON HB348

Motion: REP. BOOKOUT-REINICKE moved that **HB348 DO PASS.**

Discussion:

REP. GALVIN-HALCRO moved amendment HB034801.agh.

Mr. Montalban explained the amendment would extend the time of payment, would retain the 35 mile limit between stores in rural areas, and keep the population figure at 40,000.

REP. GALLIK asked how much the bill would cost.

REP. SHOCKLEY said it would be \$243,000 the first year and ultimately \$1.2 million.

REP. GALLIK said he was going to vote No. He said the Martz administration said no new tax increases. He said there is not money to fund other things so he would not vote to give back money the state already has.

REP. MATTHEWS said he will support the bill and let Appropriations have the final say.

REP. LAIBLE said these are dollars which should not have gone to the state to begin with as the sale of the liquor stores was supposed to have been revenue neutral.

REP. BROWN noted the amendment makes less of a hit to the general fund than the original bill.

CHAIRMAN MCKENNEY said the state spends huge sums on education, approximately 60% of the general fund. He noted the \$54 million increase in education funding during the special session. He said the liquor store owners are people who are in business for

themselves. The sale of the stores to these people was supposed to be revenue neutral, however, as a result of the sale the state had seen a windfall, which rightfully belonged to the store owners.

Motion/Vote: REP. LAWSON moved that **HB348 DO PASS AS AMENDED.**
Motion carried 17-2 with Fritz and Gallik voting no.

ADJOURNMENT

Adjournment: 11:30 A.M.

REP. JOE MCKENNEY, Chairman

JANE NOFSINGER, Secretary

JM/JN

EXHIBIT (buh24aad)